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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,895	04/08/2005	Pamela A. Boone	102792-344/11201P3	8562

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EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/510,895

Applicant(s)

BOONE ET AL.

Examiner

Charles I. Boyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/3/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. Claim 8 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 9. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9 and 14-16 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-9, 20, and 21 of copending Application No. 10/789018. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant

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application are claiming common subject matter, as follows: The combination of claims 1 and 16 in the present application is substantially identical to claim 1 in 10/789,018.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 4-7, 10-12, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Blandiaux, WO 01/77278.

Blandiaux teaches an acidic liquid crystal detergent composition (see abstract). An example of such a composition comprises an anionic surfactant, suspended silicon abrasive, coconut fatty acid, lactic acid, thickener, glycol ether organic solvent, and the balance water wherein the composition has a pH of 3 (page 18, example 1). As this

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reference meets all material limitations of the claims at hand, the reference is anticipatory.

6. Claims 1-3, and 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheung et al, WO 03/020863.

Cheung et al teach a thickened toilet bowl cleaner (see abstract). An example of such a composition comprises an alkyl sulfate anionic surfactant, suspended alginate beads, citric acid, hydroxyethyl cellulose/xanthan gum thickener, and the balance water wherein the composition has a pH of 3 (page 10, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

7. Claims 1, 8, 9, and 16 are rejected under 35 U.S.C. 102(a) as being anticipated by Munk et al, WO 02/062973.

Munk et al teach a laundry detergent (see abstract). An example of such a composition comprises an alkyl sulfate anionic surfactant, suspended alginate beads, fatty acids, copolymer thickener, and the balance water (page 8, example and page 11, lines 15-20). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

8. Claims 1-3, 8, 9, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmucker-Castner et al, US 6,635,702.

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Schmucker-Castner et al teach a shampoo (see abstract). An example of such a composition comprises an alkyl sulfate anionic surfactant, suspended pearlescent materials, citric acid, acrylate thickener, and the balance water (col. 15, example 1). Suitable insoluble compounds of the invention include alginate beads (col. 8, line 63). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

9. Claims 1, 4-7, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Iding, EP 216,416.

Iding teaches a viscous hard surface cleaner (see abstract). An example of such a composition comprises an anionic surfactant, suspended calcium carbonate abrasive, coconut fatty acid, thickener, benzyl alcohol organic solvent, and the balance water (page 8, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

10. Claims 1, 8, 9, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fonsny et al, EP 292,910.

Fonsny et al teach an abrasive hard surface cleaner (see abstract). An example of such a composition comprises an alkyl sulfate anionic surfactant, suspended PVC abrasive beads, coconut fatty acid, clay thickener, and the balance

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water (page 5, example III). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

11. Claims 1-7 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Toussaint et al, US 6,339,058.

Toussaint teaches light duty compositions containing gelatin beads (see abstract). An example of such a composition comprises an alkyl ether sulfate anionic surfactant, suspended gelatin beads, citric or lactic acid, thickener, polyethylene glycol organic solvent, and the balance water (col. 9, claims 1 and 6). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

12. Claims 1-3, 8, 9, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Garner et al, US 6,037,316.

Garner et al teach an abrasive hard surface cleaner (see abstract). An example of such a composition comprises an anionic surfactant, suspended borax abrasive, citric acid, borax thickener, and the balance water (col. 9, formulation J). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-F 9:30 to 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571 272 1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles I Boyer
Primary Examiner
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